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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,238	08/31/2001	Shrjie Tzeng	023925-00014	1315
32294	7590	12/13/2005		EXAMINER
SQUIRE, SANDERS & DEMPSEY L.L.P. 14TH FLOOR 8000 TOWERS CRESCENT TYSONS CORNER, VA 22182			MOORE JR, MICHAEL J	
			ART UNIT	PAPER NUMBER
			2666	

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. <i>(X)</i> 09/943,238	Applicant(s) TZENG, SHRJIE
	Examiner Michael J. Moore, Jr.	Art Unit 2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 September 2005.
- 2a) This action is FINAL.                                   2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-10 and 16-23 is/are allowed.
- 6) Claim(s) 11, 12 and 14 is/are rejected.
- 7) Claim(s) 13 and 15 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 December 2001 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### ***Terminal Disclaimer***

1. The terminal disclaimer filed on 9/30/2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any patent granted on Application No. 09/920944 has been reviewed and is accepted. The terminal disclaimer has been recorded. The provisional obviousness-type double patenting rejection of the previous Office Action has been overcome.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 11, 12, and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Wong et al. (U.S. 6,754,216) ("Wong"). Wong teaches all of the limitations of the specified claims with the reasoning that follows.

Regarding claim 11, "designating a first plurality of ports of a first switch by a first numbering scheme" is anticipated by ports 0-8 (first numbering scheme) of fabric access devices (FAD) 414, 416, and 418 of Figure 4 that are part of the switch fabric 300 (first switch) of Figure 3.

“Designating a second plurality of ports of a second switch by a second numbering scheme” is anticipated by ports 0-8 (second numbering scheme) of port interface device (OCTOPID) groups 440, 442, 444, 446, 448, 450, and 452 of Figure 4 that are part of the Ethernet switch system 350 (second switch) of Figure 3.

“Coupling a first link port of the first plurality of ports to a second link port of the second plurality of ports” is anticipated by ports 0-8 of fabric access devices (FAD) 414, 416, and 418 that are coupled to ports 0-8 of port interface device (OCTOPID) groups 440, 442, 444, 446, 448, 450, and 452 via TAP multiplexers 426, 428, 430, 432, 434, and 436 as shown in Figure 4.

“Configuring the first switch to generate a first rate control message at the first switch and relay the first rate control message to a first local communications channel of the first switch” is anticipated by SWIP controller 305 of switch fabric 300 (first switch) of Figure 3 that monitors the congestion of the port interface devices and transmits a congestion rating (first rate control message) to the port interface devices as spoken of on column 16, lines 37-50.

Lastly, “configuring the first switch to perform a rate control function related to the second switch based on the first rate control message” is anticipated by SWIP controller 800 of Figure 8 containing congestion control module 840 that controls transmissions (rate control function) in light of detected congestion conditions (first rate control message) as spoken of on column 15, lines 18-34.

Regarding claim 12, “the first rate control message including data relating to the first link port being congested” is anticipated by the congestion rating (first rate control

message) transmitted by a SWIP controller the congestion status of port interface devices (PIPs) as spoken of on column 16, lines 46-55.

Lastly, "configuring the first switch to perform a rate control function including preventing data packets from being sent to the second switch" is anticipated by SWIP controller 800 of Figure 8 containing congestion control module 840 that controls transmissions (rate control function) in light of detected congestion conditions (first rate control message) as spoken of on column 15, lines 18-34, as well as column 16, lines 50-55 that states that each PID uses the congestion rating to determine whether to transmit or discard data (prevent packets from being sent) intended for a recipient OctaPID.

Regarding claim 14, "configuring the first group of ports to drop all packets destined for the second switch when the first rate control message includes data relating to the first link port being congested" is anticipated by lines 50-55 that states that each PID uses the congestion rating to determine whether to transmit or discard data (prevent packets from being sent) intended for a recipient OctaPID.

#### ***Allowable Subject Matter***

4. Claims 1-10 and 16-23 are allowable over the prior art of record.
5. Claims 13 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims **1-10 and 16-23**, these claims are allowable for the reasons indicated in the previous Office Action.

Regarding claim **13**, *Wong* teaches the method of claim **11**. *Wong* fails to teach the generating of a HOL status notification and performing a rate control function relating to a HOL status notification relating to all of the second group of ports based on the first rate control message.

Regarding claim **15**, this claim is further limiting to claim **13** and is thus also allowable over the prior art of record.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. *Dai et al.* (U.S. 6,246,692) is also relevant to this application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Moore, Jr. whose telephone number is (571) 272-3168. The examiner can normally be reached on Monday-Friday (8:30am - 5:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao can be reached at (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael J. Moore, Jr.  
Examiner  
Art Unit 2666

mjm MM



09/27/03  
Examiner  
Art Unit 2666